

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6882

BILL NUMBER: SB 278

NOTE PREPARED: Jan 6, 2008

BILL AMENDED:

SUBJECT: Secretary of State Investigations.

FIRST AUTHOR: Sen. Delph

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
X FEDERAL

IMPACT: State & Local

Summary of Legislation: *Secretary of State-* The bill authorizes the Secretary of State (SOS) to conduct public or private investigations: (1) to determine whether a violation of Indiana election law has occurred, is occurring, or is about to occur; and (2) to aid in the enforcement of Indiana election law. The bill gives the SOS certain investigative powers, including the power to issue subpoenas and conduct depositions.

Attorney General- The bill requires the Attorney General (AG) to provide legal assistance to the SOS in the investigation of possible violations.

Assistance to Referred Agencies or Prosecutors- The bill requires the SOS, upon request, to provide all necessary and reasonable assistance to the agency or the prosecuting attorney to which investigation results are referred.

Report to SOS on Referral- The bill requires the agency or prosecuting attorney receiving a referral from the SOS to report to the SOS not later than the earlier of: (1) 180 days after the referral; or (2) the sixtieth day before the statute of limitations expires on a violation that was referred; the agency's or the prosecuting attorney's decision as to whether to take further action on the referral, including the action taken and the reasons for the decision.

Effective Date: July 1, 2008.

Explanation of State Expenditures: *Secretary of State-* The bill would place additional administrative responsibilities on the SOS. The SOS would be able to implement these provisions within their existing level of resources. At the end of FY 2007, the SOS reverted \$42,178 to the state General Fund. The SOS reverted

\$149,755 to the General Fund at the end of FY 2006.

If an investigation was initiated under the bill, the SOS would be able to issue subpoenas; question witnesses; require the filing of statements and other evidence; take depositions and transcribe witness testimony; investigate any machines, personal computers, or thing; and apply to a court to enforce a subpoena or any other investigative request.

Witnesses subpoenaed by the SOS would be able to receive fees and mileage as in civil cases. These expenses would be paid in the same manner as other expenses of the SOS.

Attorney General- If the SOS were to request the assistance of the Attorney General, the AG would be required to give all necessary assistance to the SOS. Unless additional funds were provided to the AG by either legislative or administrative action, the AG would have to fund any additional services needed to assist the SOS within their existing level of resources.

Background, Attorney General: The AG's General Fund appropriation is \$15.4 M for FY 2008. The AG did not revert any of their General Fund appropriation at the close of FY 2007. As of the beginning of FY 2008, the AG had 31 vacancies worth \$311,302 in salary.

The AG has been assisting the Lake County Prosecutor's Office in criminal investigations of vote fraud. As of December 2007, 53 cases of criminal vote fraud in Lake County have been brought before trial courts. There have been 38 convictions, one 'not guilty' verdict, the death of an alleged fraud perpetrator while in process, 3 dismissals, and 10 cases still in process.

Explanation of State Revenues:

Explanation of Local Expenditures: Trial courts may realize an increase in caseloads if many subpoenas are brought by the Secretary of State for review.

Explanation of Local Revenues:

State Agencies Affected: Secretary of State; Attorney General.

Local Agencies Affected: Counties, trial courts.

Information Sources: *Vote Fraud Task Force Winds Down With High Success Rate*, Times of Northwest Indiana, December 13, 2007; *State of Indiana HRM Detail Staffing Report*; State Budget Agency: *FY 2006 & FY 2007 General and Rainy Day Fund Summaries*.

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